

Quid Novi

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MCGILL UNIVERSITY FACULTY OF LAW
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Dean Brierley's Song

In August, 1982, Dean Brierley consented to an interview with Richard Janda of Quid Novi. This is the last of three parts.

Quid Novi - One thing that has been an ongoing issue at the school is the question of marking standards. It is interesting to note, and maybe this is odd coming from a student, that there seems to be a lot more bark than bite to the failure rate at McGill. I understand that the actual failure rate at the school is very low. Do you have some sense of how this has been going on over the past few years?

Dean Brierley - Oh, I think the failure rate has definitely declined. I don't have statistics at my fingertips [Editor's Note: The failure rate for last year — i.e. percentage of those who failed out of McGill — was less than 2% for the whole school and less than 5% for first year]. It has very definitely declined from what it was, say, 15 years ago. But I don't think you should scare first year students with this sort of information.

Quid Novi - Unfortunately it's something they hear about, though. I remember I was in Toronto and asking various people about McGill and one of the things I heard was that...

Dean Brierley - They really plough you!

Quid Novi - Yes, that they really plough you at McGill, and they like failing people out.

Dean Brierley - Well, that's perfectly ridiculous. I think I really can say honestly that we only admit people whom we believe are apt to pursue the study of law with profit. Why would we admit

others? If there is a margin of students who fail, that really causes more headaches than it's worth. Budgetarily, it's not significant. You might be prompted to think: Well, they accept a whole bunch of people because they want the head count and then they get the money and then they fail them out. But no, that's not true.

It has been said, at the other end of the scale, that we're not generous with our A's. This is a very interesting question, because I think it's a matter of discussion and reflection whether a law school, or any academic institu-

tion, should have an absolute or relative set of standards. In other words, do you go through your academic career as a professor saying "I've never met an A student but I know what he looks like and what he would write," or do you say, "Well, I've marked 100 papers and the top ten will be A's". That's what it comes down to. Some institutions, which will remain nameless, prefer the latter. I think on balance, it's probably true to say, although there's no monolithic view here either, that most McGill staff lean towards an absolute standard in marking. In other words, there are probably

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..... And Dance

Socialite John Brierley entertained several hundred distinguished guests in his new recreation room last Friday nite, at what was considered by many to be the gala event of the cocktail circuit here in Montreal.

Dean Brierley's generosity has earned him a reputation for these bi-annual bashes — invitations to which are offered exclusively to socially prominent citizens in bad need of a free drink. Surprisingly, many McGill law students could be seen mingling among the "beautiful people".

Among the "help" recruited to host the affair were the Dean's faithful assistants Roderick Macdonald and Blaine Baker. Macdonald is known to be a lively conversationalist, but continually refused to pass the shrimps, leaving several guests hungry and disappointed with the service. Baker was seen shaking some life into glassy-eyed contracts students, obviously paralysed by the thought of a confrontation with this pedagogical monster. New draftee

Stevens, assigned the duty of stressing to students that there is life outside of Property 1A, made much progress in the art of lip-reading — a necessity for communication at these high decibel gatherings.

The music was piped in at the maximum level tolerable to the human ear, making even simple conversation impossible. A group of misguided intellectuals threatened this "peaceful" atmosphere by attempting earnest conversation but were soon set straight by more experienced party-goers.

Generally, the pace of the celebration was fast, the room sometimes reaching temperatures exceeding 110°F. At this point a thoughtful guest would throw open the windows to bring in a comfortable 15°F. This helped to clear smoke from the air, which was mainly due to cigarettes. However, at times the smoke reached such a concentration level that people were sure the ambiance-conscious Dean was experimenting with the effects of dry ice.

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more people here who have a concept of what an "A" student is, rather than people whose top ten students are A students merely because they come out as the top ten. Now, is that right or wrong? That's an interesting question.

Quid Novi - It seems to me to be the case, though, that many students grumble about how difficult it is to do well.

Dean Brierley - The Law is not an easy mistress!

Quid Novi - Aha! You think that's the kind of answer the school gives?

Dean Brierley - Which answer?

Quid Novi - That the Law is not an easy mistress?

Dean Brierley - No, I'm only teasing. It's really not easy to excel in the law. But I'm not sure what the right answer to your point is, honestly.

Quid Novi - The only thing that students are concerned about...

Dean Brierley - ...is their competitiveness.

Quid Novi - Right.

Dean Brierley - Well, I don't say it's the right answer, but what I will say is that the Faculty is perceived elsewhere as having a sense of standards. I guess we're probably thought of as a conservative law school. But in some circles, that may well be considered to be a positive factor. I don't pretend it's a satisfactory answer to your question, because I appreciate student concern and anxiety. It may not be all that relevant, but historically there have never, even in my time as a student, been all that many A students in law. An A average is considered to be something quite special. I think we're handing out a valuable degree. Perhaps that's the more relevant point. That's what I've always heard, ...but maybe I'm the last person to hear the bad news. McGill Law degrees enjoy a very great respect in the country. Have you heard differently?

Quid Novi - I haven't heard differently, but I wonder whether you keep track of things like placement.

Dean Brierley - Well, we try. I'm going to have a computer print-out done, tracing collectively and individually a large number of

factors pertaining to all the graduates. We've kept track of them as well as any Graduate Society can keep track of 2,500 graduates. But what do you want to keep track of?

Quid Novi - Let me put it this way. Are you satisfied with our placement record?

Dean Brierley - Well, no. Ideally, what we should do is what the American schools do and have an office which not only looks after admissions but helps in placement. I'd love to do that if we had the money. I'm familiar with the American system. It's an important feature and it's a good part of student recruitment that you've got a superb placement process. Lord knows we have enough contacts across the country. And we do do placement. But it's on a very *ad hoc* basis. There's no organized system for doing it. And that's because there are no resources. That would be a very great development. I'm not really hopeful that we'll get funds to do that from this review business. But I think we do what we can.

The student initiative in this connection — the Job Bank — is pretty successful on the whole, I guess. And we've given it as much tangible support as we can. But a lot more could be done on placement. There's no question about that.

Quid Novi - But do you have a sense that whether we have a formal structure in place or not, students emerging with a McGill degree are competitive?

Dean Brierley - Oh, very much so. Very much so. In fact, I have a certain correspondence every year with the United States that is very reassuring. No Canadian law degree is formally recognized by the American Bar Association or the American Association of Law Schools, which are the two accrediting agencies. And no Canadian law school has ever sought that accreditation. The reason was — I don't know whether it still would be — that Canadian law schools didn't want to be swamped with American applicants. But nonetheless, numbers of Canadians and numbers of McGill people do go to American jurisdictions. And I've been most favorably impressed with the kind of reception our graduates get in the States.

And there's certainly no difficulty I'm aware of in respect of the Canadian jurisdictions. Quite the contrary. We have law firms coming from the West to recruit here. And I don't know that they do that in every law school. They may. But I'm not aware that they do.

Quid Novi - Perhaps one last question, then. How would you look back over your years as Dean?

Dean Brierley - Do you know how many they are?

Quid Novi - What is it now? Is it eight?

Dean Brierley - Yes, it's eight. I'm in my ninth now.

Quid Novi - So how would you rank your various achievements?

Dean Brierley - Well, I think that question is premature.

Quid Novi - Oh, I see.

Dean Brierley - Well, in part it's premature. We've been through some pretty tough times here. I don't think there are many law schools that have had to weather what we have had to weather. If you go back to the political problems of the early and middle seventies — I don't know how old you were — to 1976. There have also been growing financial problems, as I said earlier. These have been very very difficult times. I really don't think that the maintenance of a sense of cohesiveness and such progress as we have achieved can be attributed just to the Dean. It's a question of staff and students and others all pulling together. I suppose the main challenge has been the goal of maintaining and rehabilitating the finances of the Faculty of Law. I don't think I've been wholly unsuccessful at that. The budget has more than doubled in my tenure. It wasn't all cost-of-living increases. We've got, I think, a very imaginative curriculum which has gone through successive refinements. We have a pretty tightly run organization on the whole — so I'm told. We have, particularly now in the last couple of years, I would say, a vibrant student body — a very interesting student body — which is very good. There have been years when they've been very passive. Now I don't know how much of all of this progress since 1974 can be specifically attributed to the Dean — maybe none of it. The Dean has a lot of responsibilities but he

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The Charter v. Bill 101 (conclusion)

by Pearl Eliadis
(Continued from last week)

As will be remembered from last week, the ratio of Deschênes C.J.'s judgment was based on the fundamental distinction between the restriction and the prohibition of minority language education rights. If, however, an upper court found the provisions of Bill 101 to be restrictions of language rights, Deschênes C.J. felt it incumbent upon him to provide a second line of reasoning. In other words, assuming that the "Québec clause" in Bill 101 is a restriction rather than a prohibition of rights, does it meet the specific conditions dictated by section one of the Charter?

There are four "section one" tests which have to be passed in order for any restriction of Charter rights to stand. They are: reasonableness; prescription by law; demonstrable justification; and meeting the standard of a free and democratic society.

At the outset, the question might be asked: why bother adding the standard of a "free and democratic society"? Although Deschênes does not directly address this question, it is certainly a relevant one. If, for example, Canada were ruled by a fascist elite, it could very well be that the first three criteria could easily be met in the context of the aims of the ruling clique, while its laws violated every tenet of international human rights. It would be a gross oversimplification to maintain that Canadian governments always legislate with the benefit of individuals in mind, but there must be some national consensus as to the political and social aims of our society in order to make a bill of rights meaningful.

Deschênes C.J. felt that the very fact that the Parti Québécois, whose goal is to dismember the federation in which it exists, could come to power, was ample evidence of the free and democratic character of Canada.

Insofar as Bill 101 was a properly enacted statute of the prov-

incial legislature, it met the "prescription by law" test. As for "demonstrable justification", expert witnesses — demographers, sociologists, economists, and mathematicians — testified that a number of social and population trends highlighted the need for some kind of francisation programme. Deschênes pointed out that Bill 101 was not an isolated event in the history of Québec. Historians have noted that the French language was a powerful national force essential to the prevention of francophone assimilation into North American society. The statistics show a number of disturbing trends, however. Between 1951 and 1981, the Canadian francophone population dropped 3.7%, and most of those who "dropped" became linguistically assimilated into anglophone communities. In addition, over one third of students in English schools were allophones (other than French or English). Between 1966 and 1976, Québec saw a net loss of 17,600 francophones, as opposed to an increase of 15,000 allophones and 100,000 anglophones. All of these factors, coupled with a dramatic drop in the birth rate and the view, largely held among francophones, that English was the economically preferable language, led to a valid concern for the survival of the French language in Québec. In order to stem the substantial flow of allophones into English schools, Québec felt it necessary to enact the provisions of Bill 101. It was feared that English education was not only a linguistic but also a cultural assimilation into the anglophone community. Québec had, therefore, demonstrated to Deschênes the validity of its objective.

The crux of this second section of the judgment lies in the analysis of the "reasonable limits" test. Deschênes first examines the definition of "reasonable", turning at the outset to the case law arising from the International Convention on Human Rights. In a 1968 Belgian case which exposed the linguistic tensions between the French-speaking and Flemish populations, one finds the statement:

"The Court does not think that the legislative means adopted by the Belgian Government are disproportionate to the demands of the public interest pursued." In a 1976 English case, the same criterion was used: "Every restriction of rights must be proportional to the desired aim, and it is incumbent upon the Court to determine whether the reasons invoked...are relevant and sufficient." After looking at Indian, Nigerian, and Swiss constitutional decisions, Deschênes C.J. found that similar criteria have been domestically applied.

Deschênes C.J. subsequently drew upon English and American case law to conclude that the political aim pursued must be "legitimate and substantial", and must achieve its ends in the least "drastic" fashion. In addition, an impugned legislative provision cannot be deemed "unreasonable" on the basis of inconvenience or legislative imprudence. It will only be found unreasonable when the court deems that no reasonable person could sensibly come to the challenged view. This latter view is, in the opinion of the author, peculiarly tautological. Be that as it may, this English doctrine has some application in Canadian public law.

Deschênes C.J. arrived at three rules which may aid the courts in the search for the elusive "reasonable": first, a limit is reasonable when it uses means proportional to legislative objective; second, the "error" of unreasonableness must be one that flies in the face of common sense; and third, the courts cannot allow themselves to substitute their policy opinions for those of the legislature.

The arguments in favour of application of the Charter were: that the Charter must be given the broadest application possible; that a judgment in favour of Quebec would open the door for other provinces to derogate from the Charter; that the federal government brought about the constitutional amendment in the full know-

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Quid Novi

Editoriaux Le Tribunal-école

"How do you spell relief?"
M-O-O-T O-V-E-R

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Quid Novi est une publication hebdomadaire assurée par les étudiants de la faculté de droit de l'université McGill. La publication est rendue possible grâce à l'appui du bureau du doyen, de l'Association des étudiants en droit ainsi que par le financement individuel des étudiants. Les opinions exprimées sont propres à l'auteur. Toute contribution n'est publiée qu'à la discrétion du comité de rédaction et doit indiquer l'auteur ou son origine.

Je me souviens que cette farce basée sur une annonce publicitaire ne m'avait guère plu. Je l'ai entendue pour la première fois le jour même de ma plaidoirie et je dois avouer que ce jour-là, je ne goûtais pas à la plaisanterie. Mais avec les années qui passent, le tribunal-école s'est révélé en définitive une expérience très enrichissante et des plus "excitantes".

Bien que certaines personnes voient d'un mauvais oeil le programme du tribunal-école, il n'en demeure pas moins qu'il a une très grande importance. Et c'est sans doute après avoir cumulé les fonctions d'avocat et de juge que l'on peut mieux être en mesure d'en apprécier toute la valeur.

D'une part, un tel programme permet à l'étudiant un premier contact avec la plaidoirie. D'autre part, il lui fait découvrir que le droit est une recherche continue. En effet, il est difficile, pour ne pas dire impossible, pour tout avocat de connaître à fond tous les aspects du droit. Il lui faut donc sans cesse retourner à ses livres. C'est en cherchant à écrire un mémoire que l'on découvre l'importance d'acquérir de bonnes techniques de recherche. Et c'est là un élément essentiel du programme du tribunal-école.

La semaine prochaine, le programme sera de nouveau mis en marche. Pour l'instant, la bibliothèque baigne dans le calme, le silence; les livres sont encore sur les tablettes au bon endroit et il y a toujours une place pour m'accueillir. Il est vrai que nous ne sommes encore qu'au début des classes mais il fait bon de goûter au calme lorsque l'on sait que dans à peine une semaine, la bibliothèque sera prise d'assaut par les étudiants de deuxième année. Il me faudra alors faire ma valise et leur céder ma place. La bibliothèque connaîtra une transformation profonde de son état naturel. Les livres se promèneront d'étage en étage; les bureaux se déplaceront et l'on entendra des pépiements continuels d'étudiants "affolés".

Le problème majeur qui guette les étudiants dans la préparation d'un mémoire est la "disparition" de certains livres. Le mot "disparition" doit ici être compris dans le sens de livres qui sont remis à un endroit qui ne leur a jamais été assigné ou encore de livres qui font un "séjour prolongé" au sixième étage alors qu'ils devraient en fait se trouver au troisième.

La difficulté serait vite réglée si, lors de la semaine de la préparation du mémoire, les étudiants ayant le même problème étaient assignés un endroit dans la bibliothèque où ils pourraient travailler. Les livres qui leur sont utiles ne devraient alors pas sortir de ce "territoire". Une telle solution est à l'avantage de tous puisqu'elle permet d'éviter les innombrables pertes de temps passées à chercher le recueil qui contient l'arrêt indispensable.

Si le programme du tribunal-école se doit d'être une expérience enrichissante, il nous faut travailler ensemble afin d'éliminer tout aspect négatif qui peut se présenter. Il nous reste donc plus qu'à espérer que les années à venir verront une amélioration à ce point de vue afin que les sentiments de camaraderie et le sens de l'éthique professionnelle soient toujours présents.

Martine Turcotte

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The up-front couple of the year, who have been spotted lately in such trendy areas as the McGill student ghetto, were once again out on the dance floor disgracing members of the slower-moving generation. Jane and Patrick Glenn attribute their superb health to quiet evenings spent together

reading about Native Property Rights. In addition, word has it that Jane will be putting Patrick on a diet this fall consisting only of bean sprouts in order that he remain sharp for Foundations.

The world of fashion was more than adequately represented at this dress-up affair, and the observer was treated to a broad range of the

"latest" for this fall. Although choice was somewhat limited due to Jane Glenn's warning to a Property 1A class that all clothing should be waterproof to counter beer spillage and general drool, the ensembles chosen showed imagination and ingenuity.

Special congratulations should go to those young men brave enough to sport the trendy look of wool blazer over cashmere sweater. These hearty young men with sweat beads rolling down their foreheads, added a look of subtle prestige to the occasion, although one unappreciative guest was heard to mutter that they looked just like lawyers. Footwear included a dazzling array of American loafers and athletic shoes.

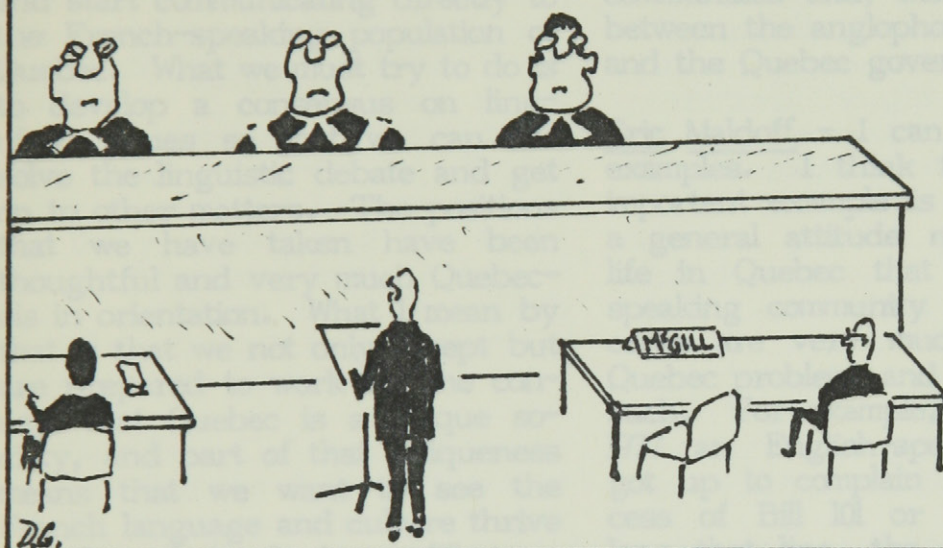
The females at the fête could admittedly have been chosen from among the most enticing fashion models in the world, although whispers passed through the crowd that many of this group have selflessly devoted themselves to the causes less frivolous than the pursuit of beauty (such as the Moot Court Board and Quid Novi). The theme for Friday evening was, clearly: the shorter, the cooler. Rumour has it that the Dean has actually found a smaller and warmer room for the next social gathering; students may want to choose their swimwear accordingly.

The Dean appeared momentarily upset by the tardy arrival of several Expos fans, whose choice of sport over free alcohol demonstrated a style of clean living frowned upon by most members of this fast-moving group. This particular entourage stole quickly to the bar, however, and began to consume beer with such speed and consistency that the best could not help but smile once again.

All good things must come to an end, and the exhausted crowd eventually dispersed; some diehards perhaps to sneak in some studying, but most of the group, particularly those who wished they'd eaten a little more caviar, headed off to such sophisticated dining establishments as Ben's and Dunkin' Donuts — a delightful end to a whirlwind evening.

"MY LORDS, THIS IS AN ACTION AGAINST OUR CLIENT FOR DAMAGES CAUSED TO THE RESPONDENT'S 1981 ZEPHYR. MY LORDS, OUR SUBMISSION WILL BE BASED ON THREE LINES OF DEFENSE. FIRST, WE WILL PROVE THAT OUR CLIENT NEVER BORROWED THE CAR IN THE FIRST PLACE. SECOND, WE WILL PROVE THAT WHEN HE DID BORROW IT, IT WAS ALREADY DAMAGED. THIRD, WE WILL UNCONTESTABLY PROVE THAT THERE IS NO DAMAGE WHATSOEVER TO THE CAR IN QUESTION."

CUP COMPETITION



LET'S WIN BACK OUR PRIDE

To put it mildly, McGill's showing last year in the national and interfaculty moots was not something to write home about.

But I do not believe that this reflects upon the talents of those students who participated in them. On the contrary, they should be commended for the efforts and enthusiasm they displayed.

There is more of a collective blame to be laid. How well McGill does in these competitions is, in large part, a function of the community effort put into these moots.

As yet, there has been in the faculty little attention given to advocacy. Lack of a significant concern for advocacy, as even a cursory diagnosis should reveal, could very well be the major cause of our recent performances.

What can be done then? Perhaps a series of lectures could be given on advocacy, oratory and other skills; perhaps an on-going program in the faculty of student debating; perhaps even a course in advocacy. Many things are possible. But let us diagnose the problem quickly. The patient is not yet terminal.

Daniel Gogek

Lynn Bailey

Interview: Eric Maldoff (Part Two)

(Continued from last week)

In August 1982, Eric Maldoff, President of Alliance Quebec, consented to an interview with Brian Mitchell of Quid Novi. It was felt that information about this new organization would be of interest to McGill law students.

Quid Novi - Given the fact that the anglophone community is clearly in a minority position here in Quebec, how can Alliance Quebec hope to fulfill the aspirations of the English-speaking community?

Eric Maldoff - In terms of how we hope to fulfill the aspirations of the English-speaking community, what we intend to do is to develop a reasoned and articulate position and start communicating directly to the French-speaking population of Quebec. What we must try to do is to develop a consensus on linguistic issues so that we can resolve the linguistic debate and get on to other matters. The positions that we have taken have been thoughtful and very much Quebecois in orientation. What I mean by that is that we not only accept but are prepared to work for the concept that Quebec is a unique society, and part of that uniqueness means that we want to see the French language and culture thrive and flourish in Quebec. What we argue is that to have the French language and culture thrive in Quebec does not mean that the English language has to be destroyed. We argue that it would be reasonable, for example, to allow for bilingual signs; the majority of French-speaking Quebecers agree with us on that, and the opinion polls are showing that fact. What we want to do is to continue to communicate a reasonable message; establish a dialogue with the French-speaking community; develop a consensus on these issues, and force government policy to respond to that consensus.

In terms of the declining members of our community there are those who would say that the battle is lost. We in Alliance Quebec completely disagree with this view. The English-speaking population of

Quebec still numbers about one million people. That is a significant number of people; that is greater than the populations of several provinces in Canada. We certainly have the numbers to support a community and a network of viable institutions. Therefore the only way that someone could argue that the battle is lost is simply if we give up the struggle in Quebec.

Quid Novi - How successful has Alliance Quebec been in opening the doors of communication between the anglophone and the francophone communities? Could you detail some examples where Alliance Quebec has gone out to establish these links of communication between our two communities and, more specifically between the anglophone community and the Quebec government?

Eric Maldoff - I can give several examples. I think that the most important example is that there is a general attitude now in public life in Quebec that the English-speaking community and its concerns are very much mainstream Quebec problems and are treated as such. For example, if in 1976 or 1977 an English-speaking person got up to complain about an excess of Bill 101 or something along that line, the complaint was immediately dismissed in the French press and amongst French politicians as being the complaint of an irrelevant minority that did not really understand Quebec, had no interest in Quebec, no future in Quebec, no roots in Quebec, and really ought not to be listened to.

If one looks at the press coverage in the last two months on issues that concern the English-speaking community, and if one starts to count the number of editorials in the French press which come out in support of the anglophone community's concerns, one realizes how the situation has changed. As recently as the fifth anniversary of Bill 101 on August 21st, Jean-Pierre Proulx wrote the lead editorial of Le Devoir saying that it was about time that the

government stop referring to the English population as one of several cultural communities, and come to terms with the fact that there is an English population in Quebec. That is a major step forward.

The lead editorial in L'Actualité in August of this year has come out saying that the education proposals of Laurin will destroy the English-speaking communities, and that that is unreasonable. We can go on down the list with editorials in Le Soleil and in La Presse which have been supportive of our positions on issues such as bilingual signs, expansion of admissions to English schools, the alteration of testing procedures of professionals at l'Office de la langue française, etc. All sorts of things have been happening along this line.

Probably one of the most significant indications of the progress we are making is that we have now met with Premier Levesque twice. We have presented our demands to him and it is well known publicly that Mr. Levesque has taken our demands seriously enough that we will be providing us with an answer in writing in the month of September. So I think that there is no doubt anywhere that the English-speaking community is being taken seriously; is being seen as a mainstream political factor in Quebec, and that Alliance Quebec is being taken seriously.

Quid Novi - Given the present political climate, do you feel that the government of Quebec actually believes that there is a future for the anglophone community here in Quebec?

Eric Maldoff - I think that what is more important than what the government believes, is what the average or the majority of Quebecers believe. Governments come and go. However, governments must reflect what the people want and what the people believe. What we're seeing now is a growing consensus across linguistic lines on linguistic issues. We're seeing

VOLLEYBALL

All those interested in playing volleyball in the Intramural league please sign up in the S.A.O.. Only requirements are: (1) must be female and (2) must want to have fun. Ask anyone on last year's team. Sign up before Wednesday September 29th 5:00 pm..

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ledge of the existence of Bill 101; that the mobility rights of Canadian citizens are impaired by the impugned sections of Bill 101 (ie. Canadian citizens from out of province who move to Québec cannot send their children to English schools); that the "Québec clause" denies equality to anglophone citizens; that the goal of the Parti Québécois is the dismemberment of Canada; that a provision enacted in the pursuance of this goal is unreasonable *prima facie*; that if the provisions of Bill 101 were struck down, demographic studies indicated that the proportion of English schools would not be more than 9% by the year 2000; and that anglophone migration from Quebec to other provinces made it unlikely that French would be endangered as it was in the past.

Deschênes C.J. rejected the argument that the challenged sections of Bill 101 were necessary to prevent the cultural disintegration of the French community and the argument that the provisions were legitimate and reasonable means of pursuing a valid provincial objective. A study of the results of a judgment unfavourable to Quebec led Deschênes C.J. to say the following: "Il est clair en effet que l'absence de la clause-Québec n'amènerait aucun amoindrissement de la portée de la loi en général. Elle n'entraînerait non plus aucun effaiblissement dans le domaine de la langue d'enseignement qui demeure, en principe, le français." He noted, in addition, that the resulting influx of students into the English school system would be negligible. To conclude, Deschênes satisfied the burden of proving that the challenged sections of Bill 101 were reasonable within the meaning of section one of the Charter of Rights and Freedoms.

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professor who said the American political system is stagnant, that the gears don't turn unless they are greased and pushed. Then he recounted a story of a meeting between President Kennedy and Martin Luther King just before Kennedy sent to Congress the first version of what would later become the 1964 Civil Rights Act. Said Kennedy to King, in effect, "Martin, your people have to thank Bull Conner more than me for this bill. For without the pictures of his Birmingham police force-spraying and clubbing blacks, this bill would never have reached the Congress." In that same sense, the Freeze is the first step towards prodding and pushing the political system. It is attempting to bring to the forefront the nuclear issue — its immediacy and insanity — so as to bring about a re-education of conventional thought on nuclear war and weapons so as to form a new and wiser consensus. And through all of this one gains faith that the American political process is as vibrant as ever. It was the *Nation* which summarized the Freeze movement and American participatory democracy best when it wrote: "There are some things like democracy, and peace itself, which you cannot have too much of."

Demetrios Xistris

Note: If you are interested in sources on this material I direct you to the Nuclear Weapons Freeze Campaign, National Clearinghouse, 4144 Lindell Blvd., Suite 404, St. Louis Mo. 63108. As to publications, *The Nation*, Jan. 16, 1981, titled *Nuclear Samizdat* by Roy and Zhores Medvedev, and the *Village Voice*, June 15, 1982, Special Issue on Nuclear Disarmament.

NEXT WEEK: Tax-free Segregation, or How Ronald Reagan has politicized his Justice Department.

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really doesn't have as much power as some people think he has and, as you know, there are many constraints of different kinds. But come back and ask me two years from now when I've finished my term.

Quid Novi - Well, thank you very much.

Dean Brierley - My pleasure.

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opinion poll after opinion poll showing that French language testing of professionals educated in Quebec has to be changed. We are seeing opinion polls showing that French-speaking Quebecers believe bilingual signs should be permitted. We are seeing opinion polls showing that French-speaking Quebecers believe that our community should have control over its own English institutions. We are seeing opinion polls showing that French-speaking Quebecers believe that English-speaking Quebecers from anywhere should be allowed to send their children to English schools in Quebec. So what we see is an emerging consensus on these points. You even see the Parti Québécois having felt the public pressure, having adopted a resolution at its convention in February 1982 that the English-speaking community should be guaranteed its institutions and its right to control them. So there is a consensus emerging. If the Parti Québécois chooses to ignore that consensus it will show itself publicly to have acted as an unreasonable irresponsible government. And any government that does not respond to the feelings and needs expressed by the population will ultimately pay the price at the polls. Our bet is that if we continue working on developing that consensus with the population, eventually government — if not this government of Quebec — will respond to that consensus.

American Corner Nuke'em Till They Twinkle?

E.P. Thompson in "A Letter to America," (The Nation, Jan. 24, 1981) called for a "politics of survival, a politics which commences not at the top with diplomats and abortive SALT negotiations, but with popular movements and with scores of lateral exchanges." Such a form of politics has taken shape and form over the last two years to such a degree that it has placed the Freeze movement on the national agenda in the United States. "The economy is the Number-One issue, of course," says Randall Kehler, National Coordinator for the Freeze movement. "But the Freeze could be the spoiler issue for anyone who refused to endorse it."

Not since Kent State has America seen such a groundswell of activism which threatens to affect the political structure by realigning political interests and priorities. The Freeze has now come to be endorsed in 14 state legislatures with Freeze campaigns currently ongoing in 318 Congressional districts in 48 states. And the Nuclear Weapons Freeze Clearinghouse estimates that as many as one quarter of the population will be voting on Freeze referendums this November. These are significant numbers indeed. And politicians pay attention to issue-oriented politics.

How Come A Freeze?

We have been living with nuclear weapons for 37 years. Why all of a sudden this surge in "survival politics"? Demographics show a new and younger America that has grown up unaffected and outside of the Cold War politics of the fifties. Then, American existence was based on antagonism and face-to-face confrontation with the Soviets. Today, American survival is viewed in terms of peaceful coexistence. As a matter of fact, American-Soviet relations are seen as the key to the world's non-extinction. The naivety of the American public towards a nuclear environment has drastically changed since the perception that the Bomb was our protector, a view which is

well documented in the recent movie Atomic Café. When accuracy over a 7,000 mile trajectory is measured in terms of feet and inches and delivery times are clocked in minutes and seconds, one does not need a Pentagon Defense Manual to realize that today a nuclear war is more fact than fiction. This new dawning has awakened many Americans to form a viable political interest group.

Fair enough. But what is the Freeze? The Clearinghouse tells us that it is a mutual verifiable agreement between the U.S. and U.S.S.R. that would halt any further production, testing and deployment of nuclear weapons and new delivery systems. Is it workable? Why yes, says the Clearinghouse. All the Freeze purports to be is an uncomplicated, across-the-board end to more nuclear weapons. It simply says stop. It is the rationalization of an irrational potential scenario. But what about the reactionary view that we are behind the Soviets in the arms race? Freeze coordinators claim that this is one of the great myths propagated by the Pentagon. Their 1982 Defense Report shows that the U.S. actually has 26% more nuclear weapons. Besides, when was the last time that you hear a U.S. general say he would be willing to trade the U.S. military establishment for the Soviet one? Fine, but can we trust the Soviets? Yes, basically through the same verification process used during SALT. And not only that, claim Freeze proponents, but the economy will also be helped by lessening the inflationary military budget and at the same time redirecting the production of goods so that they can be returned to the economy. These are the basic Freeze proposals.

The Freeze helps to eliminate concepts and discussions like MAD (mutual assured destruction), testing and battle grounds (which raised all the protests in Europe last fall), and survivability and winnability (a Cap Weinberger favorite expression). When studied carefully, the Freeze proposals

really attack our civilization's sanity. They are like a psychiatric cure. For are we really intent to confront and destroy each other for good? Have we not lost our mind when we talk about "surviving" a nuclear war? Do you know anyone who would want to "survive" a nuclear war? It seems more likely that our shadows will be etched permanently on the concrete walls of buildings, just like they were in Nagasaki and Hiroshima.

The Summer of Our Discontent

Clearly the summer of 1982 brought the Freeze campaign to new heights of maturity. First there was the March for Disarmament and A Nuclear Freeze in New York's Central Park in June. Over 750,000 people attended the largest American peacetime rally ever held. And then in July the House face the issue of whether or not to endorse the Freeze resolution. The House opted for the softer Reagan alternative by 204-202, whereupon Freeze proponents said the roll-call would become a scorecard for fall campaigns. Nevertheless, politicians are feeling the Freeze's heat. In August the Democratic Party in Philadelphia placed the resolution as the first proposal of its platform.

Whether you agree with the Freeze proposals or not you must agree that the American system is functioning through what is known as participatory democracy just as Thomas Jefferson planned it. Ironically enough, the Freeze started right where the Revolution did — in town halls and town meetings across the country. It is through pressure of this nature by which government becomes more accountable and thus more responsive to the needs of its citizens. Movements like the Freeze force the power elites to re-think their policies. The Freeze is attempting to get America to take a hard look at itself.

The Effect of Pressure Politics

I once had a political science

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